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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,557	10/27/2003	Majid S. Delpassand	DYN002US	2429

32656 7590 06/02/2005
W-H ENERGY SERVICES, INC.
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HOUSTON, TX 77042

EXAMINER

TRIEU, THERESA

ART UNIT	PAPER NUMBER
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3748

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/694,557

Applicant(s)

DELPASSAND ET AL.

Examiner

Theresa Trieu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 32-39 and 42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32-39 and 42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>March 1, 2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is responsive to the applicants' amendment filed on March 1, 2005.

Claim 42 has been amended. Claims 1-31, 40, 41 and 43 have been withdrawn. Overall, claims 32-39 and 42 are pending in this application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 32-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Wood et al. (Wood) (Patent Number 6,183,226) (Figs. 1 and 2) or Zeitvogel (Figs. 2 and 3) (Publication Number DE 2,713,468) in view of Turner (Fig. 7) (Patent Number 6,102,681).

Regarding claims 32-39, Wood (as shown in Figs. 1 and 2) or Zeitvogel (as shown in Figs. 2 and 3) discloses a progressing cavity stator comprising a fiber reinforced composite

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component (22, 24 in Embodiment A in Wood, and 2 in Zeitvogel) providing an internal helical cavity, the fiber reinforced composite component having an internal surface, the internal surface having at least one helical groove provided thereon; an elastomeric liner (26 in Embodiment A in Wood, and 1 in Zeitvogel) disposed on the internal surface; and the fiber reinforced composite component including a plurality of fibers disposed in a matrix material. However, Wood or Zeitvogel fails to disclose the plurality of fibers disposed such that distinct portions thereof follow correspondingly distinct directions.

Turner teaches that it is conventional in the Moineau art to utilize the plurality of fibers disposed such that distinct portions thereof follow correspondingly distinct directions (see Fig. 7); the fibers into braids (40) which follow distinct directions. It would have been obvious to one having ordinary skill in the art to dispose the plurality of fibers in either Wood or Zeitvogel into braids that follow distinct directions, as taught by Turner, since the use thereof would have strengthened the composite component.

Claims 38, 39 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood in view of Turner.

Wood further discloses that the progressing cavity stator is employed in a downhole drilling motor as claimed (see col. 2, line 65).

Response to Arguments

Applicants' arguments filed on March 1, 2005 have been fully considered but they are not persuasive. Applicants argue that there is no suggestion or motivation to modify the reference or to combine any of the references of Wood '226 or Zeitvogel '468 with Turner '681.

Wood ' 226, Zeitvogel '468 and Turner '681 references, however, have the same basic a progressive cavity stator using a composite material to pump a liquid. Since the progressive cavity motors/pumps of these references are of the same basic structure and operate in substantially the same manner there would be a suggestion to combine the disclosures.

In response to applicants' argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Wood ' 226 or Zeitvogel '468 teaches that the progressive cavity stator comprising a fiber reinforced composite component providing an internal helical cavity; an elastomeric liner disposed on the internal surface; and the fiber reinforced composite component including a plurality of fibers disposed in a matrix material. Turner herein merely for the teaching that it is conventional to utilize the plurality of fibers disposed such that distinct portions thereof follow correspondingly distinct directions (see Fig. 7); the fibers into braids (40) which follow distinct directions. The examiner maintains that one of ordinary skill would have found it obvious to utilize disposing the plurality of fibers in either Wood or Zeitvogel into braids that follow distinct directions as taught by Turner. The claims do not patentably define over the combination of references as set forth in the above rejections.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Communication


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa Trieu whose telephone number is 571-272-4868. The examiner can normally be reached on Monday-Friday 8:30am- 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E Denion can be reached on 571-272-4859. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TT



Theresa Trieu
Primary Examiner
Art Unit 3748